

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Daniel Herrera, #89473-198,

Plaintiff,

v.

Warden Darleen Drew; SIS, Lt. Brawley; Captain Gerald)
DelRey; Lt. Miller; Lt. Edwards; Lt. Jones; M.D. Berrios;)
R.N. Borck; HSA McDannold,)

Defendants.

) C/A No. 5:12-1002-CMC-KDW

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Order

Plaintiff, proceeding pro se and *in forma pauperis*, brought this action alleging violations of his constitutional rights pursuant to 42 U.S.C. § 1983. Defendants filed a Motion to Dismiss on August 31, 2012. ECF No. 31. As Plaintiff is proceeding pro se, the court entered an order on September 4, 2012, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), advising Plaintiff of the importance of a motion to dismiss and of the need for him to file an adequate response. ECF No. 32. Plaintiff was informed that his response was due by October 9, 2012, and was specifically advised that if he failed to respond adequately, Defendants motion may be granted, thereby ending his case.

Notwithstanding the specific warning and instructions set forth in the court's *Roseboro* order, Plaintiff has failed to respond to the motion. As such, it appears to the court that Plaintiff does not oppose the motion and wishes to abandon his action against Defendants. Based on the foregoing, Plaintiff is directed to advise the court whether he wishes to continue with this case and to file a response to Defendants' Motion to Dismiss by **October 29, 2012**. Plaintiff is further advised that if he fails to respond, this action against Defendants will be recommended for

dismissal with prejudice for failure to prosecute. *See Davis v. Williams*, 588 F.2d 69, 70 (4th Cir. 1978); Fed. R. Civ. P. 41(b).

IT IS SO ORDERED.

A handwritten signature in black ink, reading "Kaymani D. West". The signature is written in a cursive, flowing style.

October 12, 2012
Florence, South Carolina

Kaymani D. West
United States Magistrate Judge